

Proposer / Bidder Registration Form

It is the Proposer Bidder's responsibility to make certain they have received any/all addenda relating to their bid / proposal prior to the bid opening date. If you are downloading a bid proposal we strongly encourage you to notify the City of Beverly Purchasing Department at dgelineau@beverlyma.gov and provide us with the following information. In the event an addendum is issued it will be sent to all bidders who have provided the City with this information.

Request for Proposal or Invitation for Bid Number: 18-021

Contact Name:

Company Name:

Address:

City/Town:

State:

Zip Code:

Phone:

Fax:

Cell:

Email:



CITY OF BEVERLY

18-021

FURNISH & DELIVER POLLING BOOTHS

INVITATION FOR BIDS DUE:

Thursday, May 15, 2018 @ 11:00 A.M.

at the Office of the Purchasing Agent,
City Hall, 191 Cabot Street
Beverly, Massachusetts 01915

Submitted Forms Checklist

For the Bidder's Convenience we have included this form.

Please be sure you have included the following.

Included

- | | |
|--|--|
| <input type="checkbox"/> Yes <input type="checkbox"/> No | One (1) Original and One (1) Copy Bid Submission |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | Certification of NonCollusion/Statement of Tax Compliance |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | Conflict of Interest Certification |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | Certificate of Vote of Corporation (if applicable) |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | Certificate of Compliance with M.G.L.c. 151B/Non-Debarment |

Signature

PRICE FORM
City of Beverly
18-021 Furnish & Deliver Polling Booths
PRICE FORM

The undersigned hereby submits a price proposal to provide the Polling Booths as specified in the Invitation for Bids for the City of Beverly for # 18-021 Furnish & Deliver Polling Booths.

The Bidder hereby agrees to deliver thirty five (35) Polling Booths as specified in this Invitation for Bids.
Polling Booths \$ _____ X 35 Polling Booths = Price \$ _____
Unit Price Total Price in Numerals

Total Price In Words

The undersigned certifies under penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this paragraph, the word "person" shall mean any natural person, joint venture, partnership, corporation or other business or legal entity.

Signature of Authorized Agent

Company Name (Please Type)

Printed Name & Title

(Date)

By signing above, the authorized officer is certifying that a complete examination of all bid documents has been made and that the goods/services will be delivered within the time specified and at the prices stated.

**CERTIFICATE OF NON-COLLUSION
AND
STATEMENT OF TAX COMPLIANCE**

CITYOFBEVERLY, OFFICE OF THE PURCHASING AGENT
191CabotStreet
Beverly, MA 01915

CERTIFICATE OF NON-COLLUSION

The undersigned certifies under the penalties of perjury that this response has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity or group of individuals.

Signature of Individual Signing Response: _____

Name of Business: _____

Date: _____

STATEMENT OF TAX COMPLIANCE

Pursuant to M.G.L. Chapter 62C, Section 49A, I certify under penalties of perjury that I, to my best knowledge and belief, have complied with all laws of the Commonwealth of Massachusetts relating to taxes.

Social Security or Federal Identification Number: _____

Signature of individual signing response: _____

Date: _____

CONFLICT OF INTEREST CERTIFICATION

The Undersigned hereby certifies that:

1. The Undersigned has not given, offered, or agreed to give any gift, contribution, or offer of employment as an inducement for, or in connection with, the award of a Contract.
2. No consultant to, or subcontractor for, the Undersigned has given, offered, or agreed to give any gift, contribution, or offer of employment to the Undersigned, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a Contract by the Undersigned.
3. No person, corporation, or other entity, other than a bona fide full time employee of the Undersigned has been retained or hired to solicit for or in any way assist the Undersigned in obtaining a Contract upon an agreement or understanding that such person, corporation or entity be paid a fee or other compensation contingent upon the award of a Contract to the Undersigned.
4. Undersigned understands that the Massachusetts Conflict of Interest Law, Chapter 268A of the Massachusetts General Laws (M.G.L.), applies to the Undersigned and its officers, employees, agents, subcontractors, and affiliated entities.
5. Undersigned understands that the Undersigned and its officers, employees, agents, subcontractors, and affiliated entities, shall not participate in any activity which constitutes a violation of the Massachusetts Conflict of Interest Law or which creates an appearance of a violation of the Massachusetts Conflict of Interest Law.

Signature required

CERTIFICATE OF VOTE OF CORPORATION (if applicable)

CITY OF BEVERLY, OFFICE OF THE PURCHASING AGENT

191 Cabot Street
Beverly, MA 01915

CERTIFICATE OF VOTE OF CORPORATION
(if applicable)

Date: _____

I, _____, Clerk-Secretary of the corporation named in the foregoing

Proposal, certify that _____ who signed the said

Proposal on behalf of said corporation, was then the _____ of said
(Title)

corporation; that I know his signature and that his signature thereto is genuine and that said

Proposal was duly executed for and on _____, 2017.

(Clerk-Secretary)

Date of Incorporation: _____

(Corporate Seal)

General Requirements:

All polling booths must meet the following dimensions and standards as applicable.

- One piece construction with no loose parts. No tools required for either assembly or dismantling
- Telescopic leg assembly that "locks in place" 'spring button' on inner leg of the telescopic leg assembly must have a no-collapse feature on legs.
- Booths must include extension visors that provide additional privacy to voters with disabilities and others.
- Booths must contain industrial standard furniture casters for ease of transport. (Caster may be at top or bottom of shelving area)
- Booths must be delivered in 3ply corrugated board
- Booth requires upgraded shelf catch
- Mechanism for ensuring shelf stays up
- Booths must fold up for easy storage and minimal footprint.
- Folded booth must be secured with strap and buckle

Polling Booth Dimensions

- *Assembled dimensions:*
 - 61 inches to frame top
 - 68"/70" inches to visor top (can be extended)
 - 37 1/2 inches to standard writing shelf
 - 30 inches to seated/wheelchair/accessible shelf
 - 32 inch width between outside legs
- *Writing Table Dimensions*
 - Extended shelf depth for larger ballots of a full 20.5 inches.
 - 20 3/4" across shelf.
 - 29" across entire width of booth
- *Packed Dimensions*
 - 38 1/2 " length, 25 1/4" height, 9 1/2" depth
 - Gross weight: 481bs - Net weight: 421bs

Framing/Exterior Components

- All-metal framing must be constructed from Aluminum extruded profile to 6060 T6 with minimum wall thickness of 1.5mm with framing and metal components anodized to AA5

Shelf Design

- Shelf must be reinforced for additional rigidity
- Must have mechanism for self-catch.

Plastic/Shelf Components

- Plastic/Shelf materials must have Class I fire rating and must be warranted for a period of 10 years against weather resistance and discoloring.

Failure to meet the minimum standard shall be deemed non responsive.

WARRANTY:

The successful vendor must provide a 2 year warranty to the City of Beverly.

REFERENCE:

Vendor must provide at least 3 reference from within the last 3 years with similar size and demographics as the City of Beverly.

AWARD OF CONTRACT:

The City of Beverly shall award a single contract to the most responsive and responsible bidder offering the lowest total price for 35 Polling Booths.

Catalog numbers and brand names, if used, are only to indicate the type and to set standards. Bidders are at liberty to offer bids on substitute material, which must be of equal quality. Bids must state, however, all cases where substitutes are offered and pertinent information must be supplied with the bid. Please provide material safety data sheets for all products for which there are material safety sheets.

All questions regarding this bid should be in writing addressed to David Gelineau, Purchasing Agent through fax: 978-921-8301 or email:dgelineau@beverlyma.gov. Questions will be accepted until three (3) business days before the scheduled bid opening date.

If you have received this bid from either the City of Beverly Website or through an email it is your responsibility to check for addenda (at <http://www.beverlyma.gov/departments/procurement/forms/>) before you turn in your bid. The City of Beverly will not be responsible for any bids received omitting addenda acknowledgement.

CITY OF BEVERLY

CONTRACT

DATE: _____

This Contract is entered into on, or as of, this date by and between the City of Beverly (the "City"), and

[“Contractor”]

[Address of the Contractor]

[Telephone Number]

[FAX Number]

1. This is a Contract for the procurement of the following:
2. The Contract price to be paid to the Contractor by the City of Beverly is:
3. Payment will be made as follows:

In consideration for performance of the work in accordance with the requirements of this Contract, and in accordance with all applicable statutes, the City shall pay the Contractor the prices set forth in the Contractor's Bid/submission, a copy of which is attached hereto and incorporated by reference.

This Contract is a fixed price/fixed rate contract and therefore miscellaneous expenditures associated with the Contractor's work on this project shall not be paid by the City. In the event that an unforeseen miscellaneous expense is incurred, the Contractor shall receive the City's approval in writing prior to incurring the expense if it will subsequently seek payment of said expense from the City.

Payment shall be made to the Contractor for work completed in accordance with this Contract. All requests for payment shall be submitted to the City as an invoice and shall specify work completed, progress made toward completing deliverables, the number of hours worked, the classification of each employee who performed work, and the billing rate for each employee who performed work on the project.

Payment will be due thirty (30) days after receipt of the Contractor's invoice by the City for services rendered in accordance with this Contract. The City shall not make payments in advance.

If the City objects to all or part of any invoice, the City shall notify the Contractor in writing within two (2) weeks of the date of receipt of the invoice, and shall pay that portion of the invoice not in dispute within thirty (30) days after the date of receipt of the invoice.

Should it be necessary for the Contractor to engage the services of a specialized contractor or companies other than those originally proposed in the Contractor's response to the City's procurement documents, the Contractor shall take such measures only with the City's prior written approval. Charges for such services, with no mark-up, shall be billed directly to the City unless otherwise agreed upon by the parties.

No payment by the City to the Contractor shall be deemed to be a waiver of any right of the City under this Contract or a ratification by the City of any breach hereof by the Contractor.

4. Definitions:

4.1 Acceptance: All Contracts require proper acceptance of the described goods or services by the City of Beverly. Proper acceptance shall be understood to include inspection of goods and certification of acceptable performance for services by authorized representatives of the City to insure that the goods or services are complete and are as specified in the Contract.

4.2 Contract Documents: All documents relative to the Contract including (where used) Instructions to Bidders, Proposal Form, General Conditions, Supplementary General Conditions, General Specifications, Other Specifications included in Project Manual, Drawings, and all Addenda issued during the bidding period. The Contract documents are complementary, and what is called for by any one shall be as binding as if called for by all. The intention of the document is to include all labor and materials, equipment and transportation necessary for the proper performance of the Contract. The Contractor's Bid/Submission is also included in the Contract documents. In the event of any conflict among the Contract Documents, the Documents shall be construed according to the following priorities:

Highest Priority:	Amendments to Contract (if any)
Second Priority:	Contract
Third Priority:	Addenda to the Procurement Documents (if any)
Fourth Priority:	Procurement Documents
Fifth Priority:	Contractor's Bid/submission.

4.3 The Contractor: The "other party" to any Contract with the City. This term shall (as the sense and particular Contract so require) include Vendor, Contractor, Engineer, or other label used to identify the other party in the particular Contract. Use of the term "Contractor" shall be understood to refer to any other such label used.

4.4 Date of Substantial Performance: The date when the work is sufficiently complete, the services are performed, or the goods delivered, in accordance with Contract documents, as modified by approved Amendments and Change Orders.

4.5 Goods: Goods, Supplies or Materials.

4.6 SubContractor: Those having a direct Contract with the Contractor. The term includes one who furnished material worked to a special design according to the Drawings or Specifications of this work, but does not include one who merely furnishes material not so worked.

4.7 Work: The services or materials contracted for, or both.

5. Term of Contract and Time for Performance:

Work shall commence by the Contractor by _____. This Contract and the work of the Contractor shall be completed, in accordance with the provisions of the Contract Documents on or before _____, unless extended pursuant to a provision for extension contained in the Contract documents at the sole discretion of the City, and not subject to assent by the Contractor, and subject to the availability and appropriation of funds as certified by the City Finance Director. The time limits stated in the Contract documents are of the essence of the Contract.

6. Subject to Appropriation:

Notwithstanding anything in the Contract documents to the contrary, any and all payments which the City is required to make under this Contract shall be subject to appropriation or other availability of funds as certified by the City Accountant. In the absence of appropriation, this Contract shall be immediately terminated without liability for damages, penalties or other charges.

7. Permits and Approvals:

Permits, Licenses, Approvals and all other legal or administrative prerequisites to its performance of the Contract shall be secured and paid for by the Contractor, there will be no charge to Contractor for permits issued by the City of Beverly.

8. Termination and Default:

8.1 Without Cause. The City may terminate this Contract for convenience and without cause on seven (7) calendar days notice when in the best interests of the City by providing notice to the Contractor, which shall be in writing and shall be deemed delivered and received when given in person to the Contractor, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor. Upon termination without cause, Contractor will be paid for services rendered to the date of termination.

8.2 For Cause. If the Contractor is determined by the City to be in default of any term or condition of this Contract, the City may terminate this Contract on seven (7) days notice by providing notice to the Contractor, which shall be in writing and shall be

deemed delivered and received when given in person to the Contractor, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor. If any assignment shall be made by the Contractor or by any guarantor of the Contractor for the benefit of creditors, or if a petition is filed by the Contractor or by any guarantor of the Contractor for adjudication as a bankrupt, or for reorganization or an arrangement under any provision of the Bankruptcy Act as then in force and effect, or if an involuntary petition under any of the provisions of the Bankruptcy Act is filed against the Contractor and such involuntary petition is not discharged within ninety (90) days thereafter, in any event the City may terminate this Contract upon written notice to the Contractor.

8.3 Default. The following shall constitute events of a default under the Contract:

- 1) any material misrepresentation made by the Contractor to the City; 2) any failure to perform any of its obligations under this Contract including, but not limited to the following: (i) failure to commence performance of this Contract at the time specified in this Contract due to a reason or circumstance within the Contractor's reasonable control, (ii) failure to perform this Contract with sufficient personnel and equipment or with sufficient material to ensure the completion of this Contract within the specified time due to a reason or circumstance within the Contractor's reasonable control, (iii) failure to perform this Contract in a manner reasonably satisfactory to the City, (iv) failure to promptly re-perform within a reasonable time the services that were rejected by the City as unsatisfactory, or erroneous, (v) discontinuance of the services for reasons not beyond the Contractor's reasonable control, (vi) failure to comply with a material term of this Contract, including, but not limited to, the provision of insurance and non-discrimination, (vii) any other acts specifically and expressly stated in this Contract as constituting a basis for termination of this Contract, and (viii) failure to comply with any and all requirements of state law and/or regulations, and City bylaw and/or regulations.

9. The Contractor's Breach and the City's Remedies:

Failure of the Contractor to comply with any of the terms or conditions of this Contract shall be deemed a material breach of this Contract, and the City of Beverly shall have all the rights and remedies provided in the Contract documents, the right to cancel, terminate, or suspend the Contract in whole or in part, the right to maintain any and all actions at law or in equity or other proceedings with respect to a breach of this Contract, including damages and specific performance, and the right to select among the remedies available to it by all of the above.

To the fullest extent permitted by law, from any sums due to the Contractor for services, the City may keep the whole or any part of the amount for expenses, losses and damages incurred by the City as a consequence of procuring services as a result of any failure, omission or mistake of the Contractor in providing services as provided in this Contract.

10. Statutory Compliance:

10.1 This Contract will be construed and governed by the provisions of applicable federal, state and local laws and regulations; and wherever any provision of the Contract or Contract documents shall conflict with any provision or requirement of federal, state or local law or regulation, then the provisions of law and regulation shall control. Where applicable to the Contract, the provisions of the General Laws are incorporated by reference into this Contract, including, but not limited to, the following:

General Laws Chapter 30B – Procurement of Goods and Services.

General Laws Chapter 30, Sec. 39, *et seq.* - Public Works Contracts.

General Laws Chapter 149, Section 44A, *et seq.* Public Buildings Contracts.

10.2 Wherever applicable law mandates the inclusion of any term and provision into a municipal contract, this Section shall be understood to import such term or provision into this Contract. To whatever extent any provision of this Contract shall be inconsistent with any law or regulation limiting the power or liability of cities and towns, such law or regulation shall control.

10.3 The Contractor shall give all notices and comply with all laws and regulations bearing on the performance of the Contract. If the Contractor performs the Contract in violation of any applicable law or regulation, the Contractor shall bear all costs arising therefrom.

10.4 The Contractor shall keep itself fully informed of all existing and future State and federal Laws and Municipal By-laws and Regulations and of all orders and decrees of any bodies or tribunals having jurisdiction in any manner affecting those engaged or employed in the work, of the materials used in the work or in any way affecting the conduct of the work. If any discrepancy or inconsistency is discovered in the Drawings, Specifications or Contract for this work in violation of any such law, by-law, regulation, order or decree, it shall forthwith report the same in writing to the City. It shall, at all times, itself observe and comply with all such existing and future laws, by-laws, regulations, orders and decrees; and shall protect and indemnify the City of Beverly, and its duly appointed agents against any claim or liability arising from or based on any violation whether by him or its agents, employees or subcontractors of any such law, by-law, regulation or decree.

11. Conflict of Interest:

Both the City and the Contractor acknowledge the provisions of the State Conflict of Interest Law (General Laws Chapter 268A), and this Contract expressly prohibits any activity which shall constitute a violation of that law. The Contractor shall be deemed to have investigated the application of M.G.L. c. 268A to the performance of this Contract; and by executing the Contract documents the Contractor certifies to the City that neither it nor its agents, employees, or subcontractors are thereby in violation of General Laws Chapter 268A.

12. Certification of Tax Compliance

This Contract must include a certification of tax compliance by the Contractor, as required by General Laws Chapter 62C, Section 49A (Requirement of Tax Compliance by All Contractors Providing Goods, Services, or Real Estate Space to the Commonwealth of Massachusetts or Subdivision).

13. Non-Discrimination

The Contractor will carry out the obligations of this Contract in full compliance with all of the requirements imposed by or pursuant to General Laws Chapter 151B (Law Against Discrimination) and any executive orders, rules, regulations, and requirements of the Commonwealth of Massachusetts as they may from time to time be amended. The Contractor shall not discriminate against or exclude any person from participation herein on grounds of race, color, religious creed, national origin, sex, gender identity, sexual orientation (which shall not include persons whose sexual orientation involves minor children as the sex object), age, genetic information, ancestry, children, marital status, veteran status or membership in the armed services, the receiving of public assistance, and handicap. The previous sentence shall include, but not be limited to, the following: advertising, recruitment; hiring; rates of pay or other forms of compensation; terms; conditions or privileges of employment; employment upgrading; transfer; demotion; layoff; and termination. The Contractor shall take affirmative actions to insure that applicants are employed, and that employees are treated during their employment, without regard to race, color, religious creed, national origin, sex, gender identity, sexual orientation (which shall not include persons whose sexual orientation involves minor children as the sex object), age, genetic information, ancestry, children, marital status, veteran status or membership in the armed services, the receiving of public assistance, and handicap.

14. Assignment:

Assignment of this Contract is prohibited, unless and only to the extent that assignment is provided for expressly in the Contract documents.

15. Condition of Enforceability Against the City:

This Contract is only binding upon, and enforceable against, the City if: (1) the Contract is signed by the Mayor or his designee; and (2) endorsed with approval by the City Accountant as to appropriation or availability of funds; (3) endorsed with approval by the City Solicitor as to form and (4) otherwise procured in accordance with all applicable federal, state, and local laws, rules, and regulations.

16. Corporate Contractor:

If the Contractor is a corporation, it shall endorse upon this Contract (or attach hereto) its Clerk's Certificate certifying the corporate capacity and authority of the party signing this Contract for the corporation. Such certificate shall be accompanied by a letter or other instrument stating that such authority continues in full force and effect as of the date the Contract is executed by the Contractor. This Contract shall not be enforceable against the City of Beverly unless and until the Contractor complies with this section.

The Contractor, if a foreign corporation, shall comply with the provisions of the General Laws, Chapter 181, Sections 3 and 5, and any Acts and Amendments thereof, and in addition thereto, relating to the appointment of the Commissioner of Corporations as its attorney, shall file with the Commissioner of Corporations a Power of Attorney and duly

authenticated copies of its Charter or Certificate of Incorporation; and said Contractor shall comply with all the laws of the Commonwealth of Massachusetts.

17. Liability of Public Officials:

To the full extent permitted by law, no official, employee, agent or representative of the City of Beverly shall be individually or personally liable on any obligation of the City under this Contract.

18. Indemnification:

The Contractor shall indemnify, defend and save harmless the City, the City's officers, agents and employees, from and against any and all damages, liabilities, actions, suits, proceedings, claims, demands, losses, costs, expenses, recoveries and judgments of every nature and description (including reasonable attorneys' fees) that may arise in whole or in part out of or in connection with the work being performed or to be performed, or out of any act or omission by the Contractor, its boards, commissions, committees, employees, agents, subcontractors, material men, assigns and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by any party indemnified hereunder, or for any violation of federal, state, or local statute, by-law, or ordinance by the Contractor, its employees, agents, subcontractors, material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.. The Contractor further agrees to reimburse the City for damage to its property caused by the Contractor, its employees, agents, subcontractors or material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, including damages caused by his, its or their use of faulty, defective, or unsuitable material or equipment, unless the damage is caused by the City's gross negligence or willful misconduct. The existence of insurance shall in no way limit the scope of the Contractor's indemnification under this contract.

19. Workers Compensation Insurance:

The Contractor shall provide by insurance for the payment of compensation and the furnishing of other benefits under Chapter 152 of the General Laws of Massachusetts (The Worker's Compensation Act) to all employees of the Contractor who are subject to the provisions of Chapter 152 of the General Laws of Massachusetts.

Failure to provide and continue in force such insurance during the period of this Contract shall be deemed a material breach of this Contract, shall operate as an immediate termination thereof, and Contractor shall indemnify the City for all losses, claims, and actions resulting from the failure to provide the insurance required by this Article.

The Contractor shall furnish to the City evidence of such insurance prior to the execution of this Contract before the same shall be binding on the parties thereto, except if specifically waived by the City.

20. Documents, Materials, Etc.

Any materials, reports, information, data, etc. given to or prepared or assembled by the Contractor under this Contract are to be kept confidential to the extent permitted by law and shall not be made available to any individual or organization by the Contractor

(except agents, servants, or employees of the Contractor) without the prior written approval of the City, except as otherwise required by law. The Contractor shall comply with the provisions Chapter 66 *et seq.* of the General Laws of Massachusetts as it relates to public documents, and all other state and federal laws and regulations relating to confidentiality, security, privacy and use of confidential data.

Any materials produced in whole or in part under this Contract shall not be subject to copyright, except by the City, in the United States or any other country. The City shall have unrestricted authority to, without payment of any royalty, commission, or additional fee of any type or nature, publicly disclose, reproduce, distribute and otherwise use, and authorize others to use, in whole or in part, any reports, data or other materials prepared under this Contract.

All data, reports, programs, software, equipment, furnishings, and any other documentation or product paid for by the City shall vest in the City at the termination of this Contract. The Contractor shall at all times, during or after termination of this Contract, obtain the prior written approval of the City before making any statement bearing on the work performed or data collected under this Contract to the press or issues any material for publication through any medium.

21. Audit, Inspection and Recordkeeping

At any time during normal business hours, and as often as the City may deem it reasonably necessary, there shall be available in the office of the Contractor for the purpose of audit, examination, and/or to make excerpts or transcript all records, contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

22. Payment

The City agrees to make all reasonable efforts to pay to the Contractor the sum set forth in the Contractor's bid or proposal within thirty (30) days of receipt of an invoice detailing the work completed and acceptance from the City of the work completed.

23. Waiver and Amendment

Amendments, or waivers of any additional term, condition, covenant, duty or obligation contained in this Contract may be made only by written amendment executed by all signatories to the original Agreement, prior to the effective date of the amendment.

To the extent allowed by law, any conditions, duties, and obligations contained in this Contract may be waived only by written Agreement by both parties.

Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any manner limit the legal or equitable remedies available to that party. No waiver by either party of any default or breach shall constitute a waiver of any subsequent default or breach of a similar or different matter.

24. Forum and Choice of Law

This Contract and any performance herein shall be governed by and be construed in accordance with the laws of the Commonwealth of Massachusetts, regardless of choice of

law principles. Any and all proceedings or actions relating to subject matter herein shall be brought and maintained in the courts of the Commonwealth of Massachusetts or the federal district court sitting in the Commonwealth of Massachusetts, which shall have exclusive jurisdiction thereof. This paragraph shall not be construed to limit any other legal rights of the parties.

25. Notices

Any notice permitted or required under the provisions of this Contract to be given or served by either of the parties hereto upon the other party hereto shall be in writing and signed in the name or on the behalf of the party giving or serving the same. Notice shall be deemed to have been received at the time of actual service or three (3) business days after the date of a certified or registered mailing properly addressed. Notice to the Contractor shall be deemed sufficient if sent to the address set forth in the Contract and to the City of Beverly by being sent to the City Solicitor, Beverly City Hall, 191 Cabot Street, Beverly, Massachusetts 01915.

26. Binding on Successors:

This Contract shall be binding upon the Contractor, its assigns, transferees, and/or successors in interest (and where not corporate, the heirs and estate of the Contractor).

27. Complete Contract/Severability:

This instrument, together with its endorsed supplements, and the other components of the contract documents, constitutes the entire contract between the parties, with no agreements other than those incorporated herein. If any provision, or portion thereof, of this Contract shall be adjudged to be invalid or unenforceable by final judgment or order of a court of competent jurisdiction the remaining provisions shall continue in effect to the extent permitted by law.

28. Independent Contractor

The Contractor shall provide services under this Contract as an independent contractor with the City and not as an employee of the City. No employee, agent or representative of the Contractor shall be entitled to receive any benefits of employment with the City, including without limitation salary, overtime, vacation pay, holiday pay, sick leave, health insurance, life insurance, pension or deferred compensation.

29. Use of Alcohol and Controlled Substances Prohibited/No Smoking

The Contractor hereby acknowledges that the use of alcoholic beverages, narcotics, and mood altering substances, except for current valid, legal prescriptions, by any officer, employee, agent, or representative of the Contractor is prohibited on City property which is the subject matter of this Agreement and during all hours of work under this Agreement. If any officer, employee, agent, or representative of the Contractor violates the foregoing provision, the City shall have the right to order that such officer, employee, agent, or representative of the Contractor shall not be permitted to return to work on this Agreement. Under such circumstances, the Contractor shall promptly remove the subject officer, employee, agent, or representative from the job site and shall not permit the subject officer, employee, agent, or representative to perform further work in conjunction with this Agreement. Pursuant to Massachusetts General Laws (M.G.L.) c. 270, §22, the Commonwealth of Massachusetts Smokefree Workplace Law, the Contractor, its officers,

employees, agents, and representatives shall refrain from smoking and from using tobacco products in any public building in the City.

30. Supplemental Conditions

The foregoing provisions apply to all contracts to which the City of Beverly shall be a party. One of the following “Supplements” *must* be “checked” as applicable to this Contract, shall be attached hereto, and shall in any event apply as the nature of the Contract requires. The Supplement contains additional terms governing the Contract:

☒ GOODS

SUPPLEMENT “G” - Applicable to Contracts for the procurement of Goods (governed by the provisions of General Laws Chapter 30B)

☐ SERVICES

SUPPLEMENT “S” - Applicable to Contracts for the procurement of Services (governed by the provisions of General Laws Chapter 30B)

☐ CONSTRUCTION

SUPPLEMENT “C” - Applicable to Contracts for Construction

IN WITNESS WHEREOF the parties have hereto and to two other identical instruments set forth their hands the day and year first above written.

THE CITY

THE CONTRACTOR

Mayor

Date

Company Name

Signature

Date

Print Name & Title

APPROVED AS TO FORM ONLY AND NOT AS TO SUBSTANCE:

City Solicitor

Date

CERTIFICATION AS TO AVAILABILITY OF FUNDS

Finance Director

Date

SUPPLEMENT "G"

1. This form supplements the general provisions of the Contract between the City of Beverly and _____, which Contract is a contract for the procurement of goods.
2. "Goods" shall mean Goods, Supplies, or Materials, as described in the Contract.
3. Change Orders:

Change orders may not increase the contract price by more than twenty-five (25%) percent, in compliance with General Laws Chapter 30B, §13.
4. This Contract for purchase includes the following delivery, installation or setup requirements:

This Agreement is intended to take effect as a sealed instrument. Witness our hands and seals hereto:

Dated: _____

IN WITNESS WHEREOF the parties have hereto and to two other identical instruments set forth their hands the day and year first above written.

THE CITY

THE CONTRACTOR

Mayor

Date

Company Name

Signature

Date

Print Name & Title

APPROVED AS TO FORM ONLY AND NOT AS TO SUBSTANCE:

City Solicitor

Date

CERTIFICATION AS TO AVAILABILITY OF FUNDS

Finance Director

Date